Testimony on Senate Bill 1046

The Reforms and Restructuring Committee

3-09-2010

Thank you for allowing me this opportunity to present my views on Senate Bill 1046. As I would understand the S-1 version of the bill, it would do several things. In brief, it would require all public employees (broadly defined) to contribute a minimum of eighty percent (80%) of the cost of any medical benefit insurance premiums paid by a public employer, or if the medical benefits include both a Health Savings Account and a high deductible plan, the employer may pay up to ninety percent (90%) of the premium cost. Additionally, the legislation provides that an employer "may" deduct the employee premium share through payroll deduction, and that it would not become effective until after any current contract expires. The legislation also provides a provision to opt out for units of local government, by two thirds (2/3) vote of its governing body. It does not provide for opportunity for opt out for school districts, intermediate districts, community colleges or institutions of higher education. This raises several concerns, and the following is an attempt to iterate those issues and explain the basis for them.

One Size Fits All

There are nearly nine hundred (900) educational institutions in Michigan and almost two thousand (2,000) units of local government which include counties, townships, cities and villages as well as independent subdivisions of those local governmental units such as road commissions, library boards, etc. Senate Bill 1046 would seek to impose identical limitations and substitute the judgment of the Legislature on all of the above regardless of the circumstances of approximately three thousand local boards or commissions who have over the years, crafted solutions that fit the needs of their communities and constituents as well as their employees.

There has been some recognition of this in the substitute bill introduced at the committee hearing on the matter. The substitute provides units of local government to opt out of the requirements of this legislation. It should be acknowledged that if this legislation progresses, schools, community colleges and universities and other four year institutions of higher education should be accorded the same measures of local control. Failure to provide such a provision would be an indictment that these duly elected officials are incapable of managing the public body they have been elected to serve.

There are several problems with the notion that insurance premiums are the main measure of efficiency when comparing cost savings in the insurance arena. Employee groups who have responded to their employer by reducing coverage, accepting higher co-pays and deductibles will undoubtedly view the impositions of this legislation as double jeopardy. School employees already have reduced their health care costs between $500 million and $600 million over the last four years. It is likely that they will try to recoup some if not all of the new losses in some other fashion such as in wages to pay for this new reduction in benefits. The bill also ignores bargaining history. As late as the 1970's, employer paid health insurance was not common with public sector employees. Changes in the federal tax codes allowing for employers to shelter employer paid health insurance opened the door for employee group to seek health insurance in lieu of wages as a form of compensation. The tax sheltered status of such benefits as well as discounts for group policies magnified the financial benefit for employees opting for health insurance rather than wages as part of the compensation package. In more recent history, as several people have previously testified, there have been many contracts settled with employers and employees crafting agreements using a combination of wage concessions, and changes in other benefits and working conditions to preserve insurance coverage. The decision to opt for tax free insurance over taxable wages or benefits has been used to maintain the best option the face of adverse times. It should be kept in mind that this legislation does not ultimately solve the cost dilemma. Employee groups could simply go back to bargaining only wages with the goal of gaining wages high enough to offset the cost of insurance, and purchase their own insurance through IRS Section 125 plans. Such options may or may not be at group rate efficiencies. Ultimately, the end result of this legislation may simply be to limit the options of both the public employers and employees in crafting agreements for their working relationships, which will further exacerbate costs.

Public Policy

While, from a simple monetary sense, SB 1046 seems to provide relief from the ever rising cost of insurance, it is but a one time fix that simply transfers cost from the employer to the employees, and does not address any of the cost drivers which are plaguing the insurance industry. Additionally, it is government interfering in business in a way that is without precedent. It ignores the free market concept of supply and demand. Traditionally, the free flow of commerce is regulated by price and supply. If the price of a good gets too high, lower priced goods, albeit, possibly less quality goods are sought. This has been happening in the insurance market for some time. If one tracks how insurance has worked over the past few decades, one would discover that in the past, health insurance typically consisted of "Indemnity" plans which simply paid any provider for services with the only cost control being a schedule of reasonable and customary fees for specific procedures maintained by each individual insurer. Drug coverage was typically a minimal co-pay for any drug a doctor prescribed. As time has progressed, insurance plans changed to "Preferred Provider Plans" in which providers contract to provide services at a predetermined rate. The current trend is for insurance plans to be "Managed Care Plans" and "High Deductible Plans". The two plans tend to be at odds with each other, as the managed care theory is to treat chronic disease early and effectively to prevent more costly treatment later, while data from high deductible plans seems to indicate that users delay treatment because of cost with the result of having higher medical costs at a later date. In the area of prescriptions, not only have the costs of co-pays risen dramatically, but requirement for the use of generic and formulary drugs has become the norm. The role of government in regulating business has typically been to provide policies versus product mandates. Through the use of policy, government can effectively mitigate some of the cost drivers which are causing medical inflation to run close to double digits, which insurance carriers are passing on to the consumer, whether it is through an employer provided group plan or individual plans. Examples of such policy intervention are things such as regulating the number of hospital beds in a geographic area, or the number of imaging machines per capita in the state. This would be a far more productive area of health care cost on which the legislature should concentrate. Savings gained through effective policy provides long term cost savings as opposed to the cost shift approach of this legislation.

These trends iterated above have taken place in the public sector as well as the private sector. Public sector bargaining tends to follow the trends set in the private sector, but usually with some lag in time. It can also be said that when economies improve, public sector wages and benefits improve more slowly than private sector repeating that same lag in time.

It is troubling that a trend seems to be emerging with public employees are "fair game" to blame for all the economic woes in this state. In a period of time where the legislature is absolutely averse to raising, or changing any other portion of the tax structure, it has deemed the idea of taxing public employees at rates significantly above the rest of the citizenry. When the proposals currently being considered by the legislature are added together, they total a 5% to 10% of salary surcharge for insurance coverage, an additional tax of 3% of income on retirement benefits, and a 5% salary reduction, the result is a new tax for public employees equal to 13% to 18% of salary. Translated to a percentage increase from the status quo, that is an unprecedented tax hike of over 400%. It should go without saying, that an increase of that magnitude inflicted on any segment of the economy, public or private, business or individual, will have very negative impacts throughout the economy.

Unintended Consequences

As with many legislative initiatives, there is always the risk of unintended consequences. One consequence could occur in the realm of public sector bargaining. This is the time of year that most of the public sector employers are in the process of bargaining contracts. A predictable consequence of the introduction of this legislation is a chilling effect on any bargaining. It is safe to say that in the economic climate that exists in this state, most current bargaining in the public sector is concession bargaining. The impact of this legislation is likely to impede any settlement containing a concession in the area of insurance coverage. Employee groups are likely to adopt a wait and see attitude to making any settlements until they find out whether the legislation passes. For employers looking to get concessions in the insurance arena, this legislation reduces the options that they would normally have to craft a total compensation settlement. When weighing the variables of wages, insurance, and other benefits such as vacation or sick leave, employers have the ability to make offers in one area, while asking for concessions in another. Each time a variable is removed, the burden of reaching agreement becomes harder. In bad economic times, employers need all the flexibility they can get to craft settlements that meet both their needs, and the needs of their employees.

Another potential, is the possibility that some lower paid employees simply cannot afford the imposed premium share, and will forego having insurance. It would be probable that this would have an adverse affect on other government programs such as MIChild, and Medicare. There is also the potential that such employees would then seek their medical treatment through emergency services which have a higher cost. Those services utilized by the uninsured are passed on to users with insurance, further driving up the cost of insurance. When it is all tabulated, there is the possibility that the deck chairs have been rearranged on the Titanic, but the ship is still sinking.

The proposed legislation says a public employer "may" deduct the mandatory premium share using payroll deduction. This leaves open the possibility that an employer could elect not to do so. That could result in effectively denying coverage for employees as most insurance companies will not accept individual payments for group plans.

It is somewhat ironic that at a time when the legislature has spent vast amounts of energy to reform and improve education in the state, that it is also attempting to put up barriers to deter recruitment of the "brightest and the best" teaching candidates coming out of our university system. Building incentives for our graduates to seek employment in more employee friendly and better paying areas will exacerbate the brain drain the state in currently experiencing, as well negatively impact the quality of the teaching staff in our K-12 system. Further, mandates such as this restrict the ability of public employers to compete in the market place for candidates in hard to fill areas such as nano science. It would be unfortunate if Central Michigan University could not recruit the best nano science researchers to staff the nano technology incubator which partners with the university, because they are prohibited by law from offering a complete and competitive benefits package.

Thank you for allowing me to share some of my thinking as it pertains to this proposed legislation. As the legislation is currently written, the Michigan Education Association must oppose this initiative. We look forward to the opportunity to work with the sponsors of this legislation to craft a more acceptable approach to cost savings for public employers, both at state and local levels.

Respectfully submitted,

Don Noble, MEA Lobbyist.